

A. G. Contract No.KR891728TRD  
ECS File: JPA-89-106  
Project: Drainage Study  
Section: Country Club Drive

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF MESA

THIS AGREEMENT is entered into 11 OCTOBER, 1989,  
pursuant to Arizona Revised Statutes, Sections 11-951 through  
11-954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and the  
CITY OF MESA, acting by and through its City Council (the  
"City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. City is empowered by Arizona Revised Statutes Section  
48-572 and City Charter Article 1, Section 103 to enter into  
this agreement and has by resolution, a copy of which is  
attached hereto and made a part hereof, resolved to enter into  
this agreement and has authorized the undersigned to execute  
this agreement on behalf of the City.

3. State has in progress a study relating to Country Club  
Drive (SR 87), between the first intersection South of Broadway  
Raod and the proposed Red Mountain Freeway. City has  
requested, and State has agreed, to expand the study to include  
off-site drainage east of Country Club within the project  
limits, at City expense.

THEREFORE, in consideration of the mutual agreements expressed  
herein, it is agreed as follows:

NO.	<u>14292</u>
FILED WITH SECRETARY OF STATE	
Date Filed	<u>10-11-89</u>
	<u>Jim Shumway</u> Secretary of State
By	<u>B. J. Hermillion</u>

## II. SCOPE OF WORK

### 1. State will:

a. By change order to it's existing study contract, accomplish the additional drainage study requested by City.

b. Invoice City for one hundred percent of the additional study costs, estimated at \$8022.

c. Provide City with the results of the additional study.

d. Enter into a future agreement with the City to provide for the construction of the additional drainage requirements as determined by the study.

### 2. City will:

a. Be responsible for the cost of the additional drainage study, estimated at \$8022, as well as any contractor claims for extra compensation due to delays or whatever reason, attributable by State to City.

b. Remit payment in full to State the cost of the additional study, estimated at \$8022, within 30 days of receipt of invoice.

c. Enter into a future agreement with the State to provide for the construction of the additional drainage requirements as determined by the study.

## III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said study; provided, however, that this agreement may be cancelled at any time prior to the commencement of construction, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:


Arizona Department of Transportation  
Engineering Consultants Services  
205 South 17 Avenue, Room 118E  
Phoenix, AZ 85007

City Manager  
55 N. Center Street  
Box 1466  
Mesa, AZ 85201

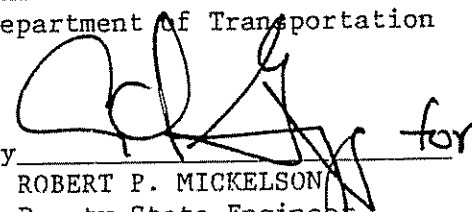
7. Attached hereto and incorporated herein is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF MESA

By   
CHARLES K. LUSTER  
City Manager

STATE OF ARIZONA  
Department of Transportation

By  for  
ROBERT P. MICKELSON  
Deputy State Engineer



CITY OF  
MESA

# *Certificate of CITY CLERK*

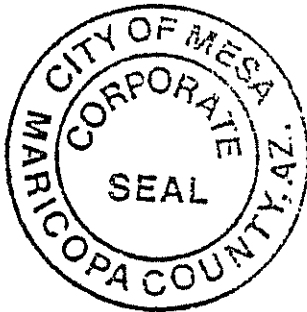
I, SHARON EGGERS, THE DULY APPOINTED, QUALIFIED AND ACTING CITY CLERK OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, DO HEREBY CERTIFY THAT THE ATTACHED COPY OF RESOLUTION NO. 6154, ENTITLED:

RESOLUTION NO. 6154

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF MESA WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION.

IS A TRUE, CORRECT AND COMPARED COPY OF THE ORIGINAL OF RECORD, AND ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MESA, ARIZONA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF THE CITY OF MESA, MARICOPA COUNTY, STATE OF ARIZONA, THIS 6TH DAY OF SEPTEMBER, 1989.



  
SHARON EGGERS  
CITY CLERK

RESOLUTION

BE IT RESOLVED on this 19th day of July 1989, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Mesa for the purpose of defining responsibilities for expanding a drainage study to include off-site drainage on Country Club Drive within the project limits.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Deputy State Engineer.



CHARLES L. MILLER, Director  
Arizona Department of  
Transportation

RESOLUTION NO. 6154

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF MESA WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION.

Section 1: That the agreement for expanding the existing study on Country Club Drive (S.R. 87) to include additional storm drainage per the City's request, between the City of Mesa and the Arizona Department of Transportation is hereby approved.

Section 2: That the City Manager is authorized and directed on behalf of the City of Mesa to execute the agreement and the City Clerk is authorized and directed to attest to the signature of the City Manager thereon.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 5<sup>th</sup> day of September, 1989.



APPROVED:

Peggy Rubach  
Mayor

ATTEST:

SM Eggers  
City Clerk

JPA 89-106

APPROVAL OF THE CITY ATTORNEY

*I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF MESA and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.*

DATED this 6<sup>th</sup> day of Sept., 1989.

Neal Bulto

City Attorney

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Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

INTERGOVERNMENTAL AGREEMENT


DETERMINATION

A. G. Contract No. K189-1728-TRD, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 28<sup>th</sup> day of September, 1989.

ROBERT K. CORBIN  
Attorney General

  
Assistant Attorney General  
Transportation Division